

Mortgage Broker Practices Act Rulemaking
Panel Meeting Minutes
August 3, 2006

Panel members present: Chuck Cross, Catherine Mele-Hetter, Laura Kiel, Jeff Berglund, Adam Stein, and Jeffrey Lorsch

Absent: Rich Bennion

1. Welcome and Introductions

Chuck introduced the Panel.

2. Recap of Meeting Format and Protocols

Chuck skipped. There were no audience members at this time.

3. Reading and assignment of public comments to date – Cindy Fazio

We received one comment asking if we are going to offer some type of a limited practice license. The answer is no.

4. Work Session with latest WAC version

Chuck – Throughout the document we use interchangeable terms: company, mortgage broker, and licensee. Chuck asked Cindy to make sure we use the correct word in all instances. The word “company” should usually be replaced with “licensee.” Do a general search. If Cindy makes changes, she’ll put them in yellow highlights for next time.

Page 5 – Chuck – (9) We changed “in” to “on” at the end of the sentence. It should have been in yellow highlights.

(12) – Chuck – Definition of “compensation or gain” means “remuneration, benefits, or an increase in something having monetary value, including but not limited to” monies. . . ”

Add “or financing” after “unusual bank” at the end of the seventh line down of the new language.

Change “of the amount” to “on the amount” in the tenth line down of the new language.

Chuck – The numbers have been changed throughout all the definitions. They should have been in yellow highlights.

Cindy – They change almost every time. She didn't think it was necessary to highlight them.

Chuck said that is how we've told everyone they can look for changes.

Page 6 - (16) - The colon at the end of the paragraph should have been in yellow highlights.

Page 6 – (16) (b) - Are we comfortable with “twenty percent?”

We agreed at DFI that we are comfortable with that. That was old language we worked up years ago. It used to say twenty five percent. Control in a banking institution took place at twenty five percent.

Page 8 – (24) (k) – James Brusselback, DFI Enforcement Chief – Add “Act” after “Truth in Lending.”

Cindy – Some of the short titles on some of the acts are missing words. She will double-check.

Page 10 – (30) – The definition of “Loan application” should have been in yellow highlights.

Page 10 - (33) – “Means” in the definition of “Loan processor” should have been in yellow highlights.

Page 14 – Cindy's note toward the top of the page. Chuck is okay with it being in both places.

Catherine – The first two paragraphs could be worded differently. “A lender is considered a third party when: . . . “

Cindy – “Third-party provider” is a statutory definition, so we need to be careful.

Chuck – We will word-smith them.

Page 14 - **C. GOOD STANDING**

Page 14 – first question – **Under what circumstances may the department conduct a good standing review of an applicant, mortgage broker licensee, designated broker, or exempt mortgage broker?**

(2) - Cindy's comment.

Chuck – Yes, we need to clarify that both the company and the proposed designated broker must meet good standing. We need to make that clear under the designated broker section.

Page 18 – second question – **If I am an exempt mortgage broker because my business has been approved by and is subject to audit by Fannie Mae or Freddie Mac, are my loan originators subject to licensing or any other sections of the act?**

Chuck – We need something added to the question. “If I am an exempt mortgage broker, That exemption that comes under (g) or (e) – a mortgage broker that uses their own funds.

Answer – We need to add that independent contractors must be licensed.

Cindy – This is only W-2 employees.

Chuck – We need to make it clear that independent contractors are NOT included.

Jeffrey – “Only your employees, not independent contractors . . .”

Page 19 – second question – **Under what circumstances will the director approve an exemption under RCW 19.146.020 (4) for the loan originators of an affiliate of a bank that is wholly owned by the bank holding company that owns the bank?**

Change “loan originators” to “exclusive agents working as loan originators” in the question.

Answer - (1) – “Plan of Business” at the end of the paragraph should not be capitalized.

Page 20 - (2) – middle of page – “To qualify for this exemption . . . “

Chuck is concerned that ninety days is too long in the fourth line down. He recommends ten days. We can say “Within ten business days, we will either notify them of the exemption, or why we need to delay in giving the exemption.” Good standing says if we have any reason to think they haven’t met the criteria, we have to notify them within ten days anyway.

Chuck - We need some informal encouraging for them to apply for the exemption in December, so when January 2007 comes around, they won’t be out of business for ten days.

Chuck - We don’t want to create what we know will be an enforcement situation.

Page 21 - New question before the CLI section - Dealing with the independent contractors of the Fannie Mae and Freddie Mac exemptions. “If I am an exempt mortgage broker under .0201 (e) (g) and (?), are my independent contractors also exempt?”

Answer – “No, only the employees are exempt, not the independent contractors.”

Page 22 - (4) – top of page - Add “or gain” after “compensation” in the fourth line down.

Page 22 – first question – **When is a CLI provider required to have a mortgage broker license?**

(1) (a) and (b) – Are they still necessary after the definitional change?

Cindy – She is waiting to hear back from Joe Vincent. It looks like we don’t need (1) (a) and (b).

Page 23 (3) - Chuck – The last few words “initiate or complete a loan application” refers back to (1) (a) and (b). If we delete (1) (a) and (b), we need to close the loop by fixing that language also.

Page 24 – first question – **May a mortgage broker be a CLI system provider?**

Chuck – question for Jeff and Adam – This would force us to capture all the CLI information on the mortgage broker. Is this necessary for us to capture this information on you?

Adam – He would recommend that you give a blanket exception if a mortgage broker operates a CLI system, they operate it in accordance with applicable law.

Chuck to Cindy – Ask Joe – Under the CLI concept, is there any reason why we would need to get all this reporting information from the licensees?

Page 25 – fourth question - Chuck - **Who at the licensed mortgage broker company is responsible for the company's compliance with the act and these rules?**

Change “company’s” to “licensee’s” on the second line of the question.

Answer – Change “company’s” to “licensee’s” in the second line.

Answer – Change “applicable local, state, & federal law” to “these laws and these rules.”

Page 25 – fifth question – **When may a mortgage broker charge the borrower a fee, commission, or other compensation for services rendered by the mortgage broker in obtaining a loan for the borrower?**

Answer - Chuck – What does “obtains” mean?

Cindy – Look at the next question on page 26. Maybe we used the term “when” inappropriately. We were trying to get at what are the circumstances under which a mortgage broker can charge a fee for their services.

Jeff – Use “under what circumstances” instead of “when.”

Chuck – We will have a combination of the Exam and Enforcement Sub-Panels work on this. Cindy, Jim, Kwadwo, Adam, and Jeff will have a conference call to decide what “obtains” means.

Chuck – Somewhere in this section, we need to make sure when we talk “licensee,” we are including the officers, employees, loan originators, and independent contractors of the licensee. We want to be careful that we don’t redefine that the independent contractors of an exempt mortgage broker become part of the licensee and therefore share the exemption also. When we say “licensee,” it is the people that work for that corporate entity as well.

Cindy – Licensee is defined.

Chuck – He doesn’t want to redefine licensee. We want to make sure the concept is understood. When an employee does something, the company or mortgage broker is held responsible for

those employees. We need to bring independent contractors under that also, but not for the purpose of exempting them out of the statute.

Page 9 – (28) – Licensee – Jeffrey – Loan originator is under licensee, but designated broker is not.

Chuck – Maybe we need to add principals, employees, and designated brokers under that also.

Cindy - Licensee is not statutorily defined.

Chuck – Maybe we need a specific question saying “For the purpose of the act and the rules, are employees, designated brokers, etc. considered part of the licensee? Or when they act, the licensee has acted.”

Adam – “Is the mortgage broker licensee responsible for their independent contractors?”

Chuck – There is a problem with the statute. The statute doesn’t include the term “employees.” Section 26, RCW 19.146.245 says – The licensee is responsible for the actions or violations of these people, and it doesn’t include employees.

Adam – Why don’t we expand the rule, mirror the statute, and add employees under rule?

Chuck asked Cindy to work with the Enforcement Sub-Panel.

Page 27 – first question – **What information will the department consider when deciding whether to approve my mortgage broker license application?**

Answer – Chuck – Check the statute for “owners and officers” to make sure it belongs in there.

Page 27 – second question – **What does the department consider in determining the financial responsibility, character, and general fitness of applicants, owners, officers, principals, or designated brokers?**

Adam thinks it is too broad from the industry perspective. How do you determine if someone had “difficulties?”

Chuck – We had to do this because good standing is only for a limited use. He thought we were going toward a list. We did end up with this broad approach.

Adam – He liked the old question and answer better.

Chuck – He doesn’t think officers belongs in here. We don’t have any statutory authority for officers to meet this test. We have some conflicts.

Jeffrey – What was wrong with the original language?

Cindy – It was good standing.

Chuck said we need something, but good standing does not apply. He thought we were going to copy and paste the elements of good standing. He agrees that this wasn't where we intended to go.

Adam – Made a recommendation that we revert to the old language.

Cindy – It was incomplete.

Chuck – Yes, there is more under good standing.

Adam – Make a list of the good standing elements and add to it if we need to.

Cindy – Delete the question and answer.

Page 27 – third question - ~~What specific information will the department consider to determine if the mortgage broker business will be operated honestly, fairly, and in compliance with applicable law?~~

Put this question back in as the fourth question under 2. Mortgage Brokers – Licensing and complete it with the rest of good standing.

Page 28 – second question – ~~Why does the department consider financial responsibility character, and general fitness before issuing a mortgage broker license?~~

Put this question back in as the third question under 2. Mortgage Brokers – Licensing.

Page 29 – third question – Adam and Chuck – **May I advertise my business while I am waiting for my mortgage broker license application to be processed?**

Answer – Chuck - Change “originate, or solicit for origination, residential real estate” to “hold themselves out as mortgage brokers and loan originators in Washington.”

Page 30 – near top of the page - New question – “May the department issue replacement licenses containing expiration dates in order to implement RCW.19.146.XXX?”

Page 30 – first question – **When may the department issue interim mortgage broker licenses?**

Add something identifying what undue delay is - “For the purposes of this section, undue delay includes the administrative alignment of license expiration or renewal dates with systems designed to assist in uniformity and provide data repositories of licensing information.”

We also need that same language for loan originators.

Add something in the fees section - “For the purposes of aligning license expiration dates or renewal dates with systems designed to assist in uniformity and provide data repositories of licensing information, when such realignment would result in a partial year of licensing, the department will impose a proportionate fee rate structure associated with that.

Cindy – We discussed that a long time ago in Licensing and decided we weren't going to prorate the fees.

What about licensees paying twice?

Chuck – We are getting word now that the system might be online by mid 2008. At the beginning of 2008, we would issue a license with an expiration date of year-end 2008.

Adam – The proration will be the most fair.

Chuck – We will realign everyone to have the same expiration date anyway.

Chuck – We need to draw a timeline for us and decide what is going to work for DFI.

Page 31 – first question and handout - Jeffrey - **May I still conduct my mortgage broker business if my mortgage broker license has expired?**

Jeffrey submitted suggested language – handout.

Chuck – The Panel needs to decide which version we use. We need to make some technical changes to whichever version we use.

Chuck – Change “no one” to “no person” in the existing language.

Chuck – Change “company” to “licensee” in the existing language.

Chuck has a problem with “at the director’s discretion” in the existing language. How would we know?

Chuck – It sounds like the Licensing Sub-Panel still needs to do some work on this.

Page 31 – second question – Chuck – **What actions may the director take relating to mortgage broker licensing?**

This question seems unnecessary to Chuck. The actions exist under the statute.

Delete question and answer.

Page 32 – first answer at the top of the page –

Chuck - Change “remaining” funds to “unclaimed” in the seventh line down. Add “see also trust accounting section.”

Page 32 – second question – **Must I display my mortgage broker license?**

Suggested new question - Chuck – “If I am an Internet company, how do I display my license?”

Adam – A common practice for CLIs is to have a licensing page.

Chuck to Adam or Jeffrey – Can you write us a simple question and answer for next time?

Chuck - Cindy's comment in the answer – Yes, for branch offices. No, for loan originators, because loan originators do not have to display their licenses.

Page 32 – third question – **What are the surety bond requirements for licensed mortgage brokers?**

Chuck – We don't address alternatives to surety bonds anywhere. He realizes it is going away, but there will be a period of time that people will still have surety bonds until they expire.

Cindy – We could add a question with a reference to the bond claim section.

Page 34 – last question – Chuck – **What must I do to replace my designated broker?**

Page 35 – answer at the top of the page - Add “new designated broker and licensee must meet” before “good standing requirements.”

Page 35 – second question – Chuck – **After my mortgage broker license is approved, may I change my business structure?**

He wants to make sure we're being careful about the change of control when the structure changes.

Cindy – The answer is in two parts: If control has changed, and if control hasn't changed.

Page 37 – second question – **What does the department consider when reviewing an application for a branch office license?**

(1) – Add “see WAC XXX” for good standing at the end of (1).

Page 38 – New question – “If my main office license expires, may I renew my branch office license?”

Answer – “No. You need to have a main office license in order to get a branch license.”

Chuck - Also we need to tell them there can't be any branch office activity taking place if there isn't a valid main office license.

Chuck – We need another question and answer - We need to clarify that if a company has chosen to establish net branches, the licensee has in no way reduced their liability. In some other states that may be possible.

Cindy – We discussed that in Licensing, and decided we didn't want to address the issue since we don't recognize net branches.

Chuck – Suggested language - “If any of your branches are under separate ownership, that doesn’t change your liability for that branch.”

Page 39 – fourth question - **Must I have a designated broker at each branch?**

Change “Must” to “May.”

Page 39 – fifth question – **How do I become a designated broker?**

Answer - (3) – Change “originating or processing residential mortgage loans” to “in the residential mortgage lending or originating business.”

(3) (a) – Add “in one or more of the following within the past five years.”

Page 40 - (i) – Delete “or branch office manager.”

(ii) – Delete “branch.”

(iii) – Change “real estate” to “residential real estate.”

(iv) – Change “real estate” to “residential real estate.”

(viii) – Delete.

(vii) - Add “the department has determined that your skills and background are sufficient” at the end.

(b) (iv) - Delete (iv).

Page 41 – fourth question - Adam - **As a designated broker, am I liable for the conduct of others in the mortgage broker company?**

Adam - The rules are in conflict with the statute.

Chuck – Delete that question and answer.

Page 42 – first question – Chuck – **After passing the designated broker test, will I have to take it again?**

Adam – Keep it five years. That’s okay.

Chuck – This says if you’ve been in the industry for the last five years.

Chuck – It should say if you have been a designated broker within the last five years.

Page 42 – Add a new question to the top of the page – See answer below.

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New answer – “You must retake the designated broker test if you have not been a designated broker for at least two years within the last five years.”

What if you’ve taken the test, and kept your continuing education current, but were never an active designated broker? No. That does not meet the criteria.

Chuck – We need to add a similar new question and answer under loan originator testing (page 52).

Laura – Course providers and associations are advertising that the courses people take now are going to count as your continuing education requirements for next year.

Chuck – The statute doesn’t kick in until January 1, 2007, so there’s no way it could count for next year.

Cindy – Page 41 –

At the last meeting, Chuck asked her to insert a question – “Do I have to pass a test prior to becoming a designated broker?”

Put the new question there. Insert the question about grandfathering.

Chuck – We reset everyone’s continuing education beginning January 2007.

Laura – If you take continuing education the fourth quarter of this transitional year, it should count as your first year.

Chuck – January 1, 2007, we’re going to reissue licenses, so everyone is expiring at the end of 2007.

Adam – Recommendations - Prorate the assessment and count continuing education that has been taken since their annual assessment date.

Chuck – They only have to take one course now. They will have to take two courses in 2007. This only applies to designated brokers, and it will only happen once.

Chuck to Cindy – We need a question and answer for that under continuing education.

Cindy – Do we want this in rule? This is a procedure.

Chuck – We can have a sentence that mirrors the new sentence on page 30 (For the purposes of alignment, the department has the authority to . . . in order to realign.)

Jeff – We have people taking continuing education courses in September at the annual conference.

Chuck – That will satisfy one course.

Chuck – We will take this back to DFI. He thinks we do want it in the rules.

Page 43 – answer at the top of page –

Should someone get additional credit for teaching a course? It's okay for a teacher of the course to teach the same course the next year and receive credit.

Delete the last sentence - "However, you may not receive credit for the same courses you teach in successive years."

Jeff – Giving additional credit would be an incentive for teaching.

Adam – Instructors will receive double credits for teaching a course.

Chuck - If you taught two different types of courses in a year, you would get four credits.

Chuck – Add a new question – **“How can I apply for this credit?”**

New answer – “You must submit to the department and receive acknowledgement of the credits.”

Page 43 - first question – Laura – **Is ethics a required continuing education course for designated brokers?**

Will brokers who have been designated brokers be required to take an ethics course in their first year?

No. Current designated brokers will be grandfathered in.

Chuck – Is that what the Panel wants? Do you want existing designated brokers to have to take an ethics course in the first year of this statute being in effect?

Adam – No. All existing, active designated brokers are grandfathered in.

Chuck – If you are a new designated broker teaching courses to satisfy your continuing education, does that satisfy your ethics requirement?

Adam – It depends if they are teaching ethics or not.

Page 43 - Laura – Are people that are designated brokers before December 31 exempt from this testing? There are people taking the designated broker test now to avoid the loan originator testing procedures.

Adam – If you've been an active designated broker within a certain timeframe.

Chuck – The suggestion is to have written in that the loan originator test is only satisfied if you are an existing, active designated broker.

Adam – Add if you’ve been the designated broker within the last two years.

Page 43 – second question – **As a designated broker, if I take a continuing education course approved for multiple jurisdictions, will the department accept it as part of my continuing education requirements?**

Answer – Change “their continuing education courses” in the second line to “that state’s notification of satisfaction of continuing education.”

Page 45 – first question – **If I am a licensed loan originator and real estate broker or salesperson, may I act as a loan originator for a borrower referred to me by one of my real estate associates?**

Chuck – Rewrite the question – “May I practice as a licensed loan originator and real estate broker or salesperson for the same buyer/borrower?”

Page 45 – second question - **May a loan originator charge the borrower a fee, commission, or other compensation for preparing, negotiating, or brokering a loan for the borrower?**

Both questions only apply to mortgage brokers. We need to say that only licensed mortgage brokers can do this.

Page 54 – answer at the top of the page – Chuck – Take out “However, you may not receive credit for the same courses you teach in successive years.”

Page 57 – Chuck – Most of this page doesn’t read well. It is duplicative.

First question – **Must I notify the department if I change the business structure of my company? When must I notify the department?**

Answer – (3) - Should be (2). Would like to change “unacceptable” to the reverse – “acceptable.”

Page 61 – first question – **Am I required to have a trust account if I do not receive any trust funds?**

Answer – However, BE AWARE AND ALERT – Why is that in all capital letters? Why is it there?

Chuck – We will redo this paragraph and bring it back next time.

Page 61 – second question – Chuck – **I would like to operate my business without a trust fund. Is there a sample form or letter prepared by the department that I can provide to the closing agent advising them that I do not have a trust fund and admonishing them to exercise extreme care in handling borrowers’ funds specifically according to expressly written instructions and not to disburse borrowers’ funds to me for any reason whatsoever?**

Delete the question and answer.

Page 61 – third question – Adam - **If I use a form or letter provided by the department, does it offer me any protection should the closing agent fail to follow my written direction sends a check with third party provider?**

Delete the question and answer.

Page 62 – answer at the top of the page

Chuck - Change “may be” to “are” in the first line.

Page 63 – first question – **May a mortgage broker accept and hold a check from a borrower that is made payable to a third party and intended to be used to pay for third-party provider services without depositing the check into a trust account?**

The answer doesn’t make sense at the end. We will rework the language.

Page 63 – second question – **May a loan originator accept and hold a check from a borrower that is made payable to a third party and intended to be used to pay for third-party provider services?**

Answer – Change “three business days” to “one business day.”

Chuck – No, to Cindy’s comment.

Page 70 – second question – **If I choose not to have a trust account, and during an internal review and audit of a closed file, I realize that the closing agent did not follow instructions and issued third party provider fees to me in error and the check was already deposited in my business, what must I do?**

Chuck and Panel – Delete the question.

Page 73 – **K. DISCLOSURE REQUIREMENTS**

First question – Chuck - **What disclosures must I make to borrowers? And when?**

Answer – Change “or money” to “or the receipt of money.” Add “for the payment of third-party services” after “from a borrower” in the second line.

Chuck - Move a question from page 98 here also.

Page 74 – first question - **What other disclosures must I make under RCW 19.146.030 (4)?**

(1) - Add – “as defined in WAC XXX” at the end of the paragraph.

(2) (i) – Add “prior to closing in writing” at the end.

Page 77 – **L. ADVERTISING**

Chuck - Change the first question under advertising to say – “What are some of the problems and violations mortgage brokers and loan originators encounter when advertising?”

Catherine – Put this in the appendix or FAQs.

Page 79 – first question – **A licensee is prohibited from advertising with envelopes or stationery that contains an official-looking emblem designed to resemble an official government mailing. What are some examples of emblems or government-like names or language that will violate the state and federal advertising laws?**

Delete “official” in the third line down of the question. Change “an” to “a” before that.

Page 79 – third question – **The act prohibits me from advertising an interest rate unless that rate is actually available at the time of the advertisement. How may I establish that an advertised interest rate was “actually available” at the time it was advertised?**

Add the rate sheet language in there – “or other information supporting the rate claim.”

Answer – Delete “sheet” after “APR calculations” in the last line.

Page 80 – answer at the top of the page – Break into two separate sentences. End the first one after “advertised.” Add “Therefore” at the beginning of the second sentence.

Page 83 – **N. PROHIBITED PRACTICES**

Chuck asked Cindy to remind Chuck and Kwadwo to write a section dealing with discount points and also with principal and interest payments vs. PITI payments.

Page 83 – Chuck – The short section dealing with influencing an appraiser needs to be grouped with the larger appraisal section that still needs to be written.

Handout – 8/04/06 – Suggestions for appraisal related rules by Richard Hagar, with notes added by CC.

Adam suggests - Use “minimum property value” for consistency throughout these questions and answers.

Cindy – We have four appraiser questions so far on page 83.

Chuck – This handout would replace all of those if we approve them.

Catherine – She thinks a lot of this is something that applies to an appraiser, not a mortgage broker.

Page 1 of handout – second question - Adam – **How may I discuss property values with an appraiser, prior to the appraisal, without the discussion constituting improperly influencing the appraiser?**

Adam - This is the one that applies to rules.

Catherine – Do we want that in the law or as an appendix or on the website?

Page 1 of handout – third question - Catherine – **What is an “area analysis” or “market analysis?”**

Catherine - We only need that under the definitions.

Page 2 of handout – first question – **We need “comps” for (a specific property) that will support a loan of _____; can you provide them?**

Chuck - Question needs some word-smithing.

Adam - This is just a statement. Maybe it could be added under the “appraisal” definition.

Page 2 of handout – third question - **Is a value opinion offered by a real estate agent an appraisal?**

Chuck – This question doesn’t belong in rules.

Page 3 of handout – second question - **How are conclusions reported by an appraiser?**

This is not a rules question.

Rich Hagar –

Chuck to Rich – Why should we or should we not take out or modify the suggested language?

Page 1 of handout – first question - **What is an appraisal?**

It is a noun and a verb. It is also a process of analyzing information. He tried to make everything simple and clear. Most of this is out of the act and federal guidelines.

Page 1 of handout – second question - **How may I discuss property values with an appraiser, prior to the appraisal, without the discussion constituting improperly influencing the appraiser?**

He tried to explain that you can inform an appraiser of your opinion, but you are prohibited from telling the appraiser the value you need.

Adam – Are you in favor of keeping the “minimum value” component?

Rich – That is only one component.

Chuck – If we only use “minimum value,” there is a problem.

Page 2 of handout – Chuck’s question - second question - **May I make requests such as the following of the appraiser?**

Page 1 of handout – second question – Jeffrey – **How may I discuss property values with an appraiser, prior to the appraisal, without the discussion constituting improperly influencing the appraiser?**

Jeffrey - He would like to rework the question from the answers. That might be easier.

Adam – He likes Jeffrey’s idea of what is acceptable communication, and what is not.

Laura – At what point, can we do research for the customer that keeps them from going into an unnecessary expense of paying for an appraisal?

Rich – You can do all the research you want. Just don’t ask the appraiser. Any level of analysis is an appraisal.

Laura – You have an appraisal report that is appropriate for that. It is different from an appraisal.

Rich – We commonly refer to them as a desktop appraisal.

Rich - The conclusions cannot be misused or misleading in any way, shape, or form. The “comp” searches are misleading.

Laura – Once the mortgage broker has ordered a desktop appraisal, they can share it with the borrower, and the borrower decides if they want to move forward to a more complete appraisal.

Rich – Yes. That is the purpose.

Bill Clark (appraisers) – The Commissioners were handed a copy of a “restricted appraisal” or “restricted use report” of a desk top appraisal. That is the most minimal analysis of what you can get.

Bill Clark – “Analysis neighborhood” or “market area analysis” – We need to drop the word “comp” or analysis. Appraisers can provide a survey of data.

Rich – page 2 of handout, second question – **May I make requests such as the following of the appraiser?**

Rich – Two questions – The answers would draw a conclusion. If he stops the appraisal process, it is an indication that he has come to a conclusion.

Chuck – Summary - He thinks he's settled on the following:

Page 1 – first question - **What is an appraisal?**

Don't need FNMA's form 1004 paragraph. We could put it in definitions. "Appraisal means . . ."

Page 1 – third question - **What is an "area analysis" or "market analysis?"**

Change to "What may I request of an appraiser?"

Answer – "You can ask them for an area analysis."

Page 1 – second question - **How may I discuss property values with an appraiser, prior to the appraisal, without the discussion constituting improperly influencing the appraiser?**

Word-smith the answer.

Delete "Asking an appraiser . . ." paragraph.

Page 2 – first question - **We need "comps" for (a specific property) that will support a loan of _____; can you provide them?**

Add that information under the appraisal definition section.

Page 2 – Chuck's question – second question - **May I make requests such as the following of the appraiser?**

This needs to be guidance. The department is willing to sit down with the appraisers to write "guidance" and post that on our website, not in the rules.

Page 2 – third question - **Is a value opinion offered by a real estate agent an appraisal?**

Delete the question and answer.

Page 3 – first question - **Why are certain types of appraisal requests, or conditions unacceptable?**

Put this in the guidance document.

Page 3 – second question - **How are conclusions reported by an appraiser?**

Put this in the guidance document also.

Page 83 – **N. PROHIBITED PRACTICES**

Chuck – Delete the four current appraiser questions and answers on page 83 and replace them with Chuck's changes in the questions and answers above.

Catherine – Cindy and Catherine will rework.

Chuck – Invited the appraisers back to the August 9 meeting to revisit the new questions and answers.

Rich – On page 1 of the handout, why are you deleting the second paragraph of the second question? Shouldn't that be in there because it is already considered "prohibitive practices?"

Rich – It is already in federal statutes. You cannot do that. It doesn't mean it goes away, it just means the mortgage brokers aren't informed.

Chuck – FIRREA is not in there. He's not convinced that a mortgage broker is included as a defined entity in FIRREA. That statute was written for financial institutions.

Back to the WAC:

Page 84 – (12) – Change "with" to "within."

Catherine - (15) Detailed examples? Cindy and Catherine would rather they be in the appendix.

Chuck – No to the detailed examples.

Page 84 – Under Prohibitive Practices - Add a new question and answer about 801 and 802 – Chuck and Kwadwo will write a question.

Page 90 - fifth question - **What is an investigation?**

Chuck – Add "proceed independently and at the same time as other matters and may continue once an enforcement action is pursued" after "In general, an investigation may."

Page 93 – answer - (3) – Adam - Why is the paragraph below starting with "The order containing" there? It has to do with applying for an application.

Chuck – You're right. It needs to be up in the application section.

The paragraph needs to be clarified.

Page 93 – Chuck to Jim – Take note of Cindy's comment. If we have a consent order that is minor in nature, he wants to make sure that DFI has the ability to say we won't stop them from coming into the business.

Page 95 – first question – Adam – **May the department sanction me from committing violations in another jurisdiction?**

Adam - What kind of a violation? There is no explanation of what kind of violation. Traffic violation?

Adam – Crimes of From good standing.

Chuck – Doesn't know if good standing fits.

Adam – It needs some sidebars.

Chuck to Jim – Will you look at that again?

Jim - We can only take an action on something we have authority over.

Chuck – They'll look at it again.

Page 95 – second question – **What is an administrative enforcement action?**

Answer – Change “but no limited to” to “but not limited to” in the fourth line down.

Page 96 – first question – **When conduct violating the act has occurred, what may the department consider when assessing the responsibility of the designated broker, principal, and owner with supervisory authority?**

Adam – It sets the criteria for determining negligence.

Cindy – These are the things that would help us make the decision.

Jim – question right before - The next question is what we look at to determine.

Adam – Directing and instructing conduct that is in violation makes one directly complicit.

Adam – It seems like it's all lumped under reasonable care. He'd like to see that section broken up a little bit.

Jim – (1) is only one component.

Chuck – If we break it up, (1) will be a list of things, (2) will be a list of things. It will be longer, not shorter.

Cindy – We were trying to provide the examples of things we would look at in order to make a determination under (1) and (2). (1) and (2) are right out of the statute. We discussed that this provides a great road map.

Chuck – Chuck and Jim will rework it (last question on page 95).

Page 96 – second question - **What is a temporary cease and desist order issued by the department?**

Chuck - Question and answer - It's not the department that issues the order, it's the director or designee.

Move up a few questions under the enforcement section.

Page 96 – third question - **When does the department use temporary cease and desist orders?**

Move up a few questions under the enforcement section also.

Page 97 – fourth question – Jeffrey – **How may I make a claim against a certificate of deposit, an irrevocable letter of credit, or other instrument that the director has permitted to be filed instead of a surety bond?**

Chuck – This is the section that needs to move up to the surety bond section also.

Page 98 – **4. General Authority**

This question and answer belongs in the disclosure section where we talk about the .070 disclosures.

The font is funny at the top of page 98.

Page 99 – **P. DEPARTMENT FEES AND COSTS**

Chuck - First two fees under mortgage brokers and loan originators – Was it the intent of the Licensing Sub-Panel to have the \$125 loan originator application fee also be the first year's licensing fee? Will it be \$250 or \$125?

It is \$125 – We need to clarify.

Chuck – Okay under mortgage brokers. Change under loan originators to show only one fee.

Page 100 – Investigations

(1) - Cindy's comment.

Chuck – Yes. Use a dollar amount.

Catherine – When can the director wave fees? Is that in statute?

Catherine will look at that in depth under .228. Also look at 43.24.086.

Page 105 – bottom – Heading – Compliance and internal audit standards. We still need to add something.

Page 106 – Chuck – Mortgage Services and Products - Adam created this list. Add another item that says “Other services and products deemed relevant to continuing education by the department.” Add “conventional and other services and products.”

Page 107 – **S. MORTGAGE BROKER COMMISSION**

Page 107 – John Wilde’s question. Do you need to have your Washington State broker’s license for five years, or do you need to have five years of experience?

John Wilde - Can someone who has a loan originator license hold the mortgage broker slot?

Chuck – No. The intent is for two of the Commissioners to be licensed loan originators only, not designated brokers.

Clarify the answers.

Five years of experience is simply in the residential lending field.

Chuck – The decision was made by the department to get rid of appendixes and move them to FAQs. The FAQs will be done this fall.

5. Public Comments

John has a question about pre-qualification vs. pre-approval. Does the Panel consider this a prohibitive practice?

John Wilde -

Mortgage brokers are sending out pre-qualification letters and pre-approval letters to real estate agents prior to having somebody sign their good faith estimate, TIL, etc. He has a clear distinction between pre-qualification letters and pre-approval letters.

A pre-approval letter goes out before the borrower has signed any disclosures, TIL, or accepted terms and conditions. They come to his office saying they need a denial letter. They lost their earnest money and had to negotiate. He would like to see guidelines of when a mortgage broker can give out a pre-qualification letter and a pre-approval letter.

Jeffrey – The application is based upon when certain information comes in. Whether or not they have acknowledged documentation doesn’t fit. Should we define what goes into those letters rather than how we describe when you’ve met the conditions of those?

Chuck – A mortgage broker cannot negligently complete a pre-approval.

Chuck – We’ve already decided that the appendixes describing prohibited practices will be moved to the FAQs. We’ll move this to the FAQs section this fall and give an example.

John Wilde –

Page 31 – first question - **May I still conduct my mortgage broker business if my mortgage broker license has expired?**

(2) At the director's discretion – Maybe it should be different for how long they have to complete what is in the pipeline if their license has expired vs. if they lost their license.

Jeffrey – There are three elements:

Designated broker – Gives interim to work on it.

Loan originator – No, you can't do any loan originator activities.

Mortgage broker – That is being defined.

Page 83 – appraisers handout – He likes having the original questions from page 83 first.

The broker can also say an estimated value.

There is a list of forms someone could apply for from an appraiser. That list includes all the forms that lenders usually require. It should be an exhaustive list of forms that could be requested.

Adam – When you solicit a value response, you are soliciting an appraisal.

Page 106 – Compliance internal standards – Isn't this where you're going to talk about the exam manual that will be available on the website?

Adam – Can we put the exam manual Excel spreadsheet in the appendix?

Chuck – The Excel spreadsheet is one of many embedded documents in the manual.

John would like the spreadsheets sooner rather than later to start using them.

Mortgage Broker Commission question – He asked if someone can sit in for the Commissioner if they can't attend a Commission meeting?

Chuck – No.

Chuck – The next meeting is Wednesday, August 9. We may not be able to have everything posted by Monday, August 7, at 5 p.m. (2 days prior to the meeting).

Meeting called to order – 1:14 p.m.

Meeting adjourned – 5:03 p.m.